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Pages: 1 (including this one)

Message: You sent a fax to Andrick Tsabetsaye, an auditor with our Department, about GSA's SmartPay credit cards on 12/10/99. I am replying for him.

Let me first explain the general concepts of the gross receipts tax, New Mexico's general excise tax. The tax is imposed directly on every person engaging in business in New Mexico. The vendor, thus, is the taxpayer and is not merely some sort of collector for the state of a tax owed by buyers. The tax is measured by the receipts of the vendor or lessor from selling property in New Mexico, leasing property employed in New Mexico, performing services in New Mexico or selling the product of research and development services in New Mexico even when the research and development services were performed outside New Mexico. These receipts are subject to tax unless an exemption or deduction applies.

Section 7-9-54 NMSA 1978 provides a deduction for receipts from sales of most tangible personal property to governments—federal, tribal, state and local. Excluded from this deduction are receipts from performance of services, leasing of property (e.g., automobiles) and sales of intangibles (e.g., licenses to use hotel/motel rooms). No other part of the law provides a general deduction for receipts from these activities. New Mexico businesses which perform services (including construction, which is statutorily defined as a service), lease property to or sell intangibles to the federal government therefore are liable for gross receipts tax. Since it is not unlawful for them to do so, they may state their price in two parts, a base price plus a "tax" component.